

JUSTIFICATION AND APPROVAL  
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs  
Office of Acquisition Operations  
Technology Acquisition Center  
260 Industrial Way West  
Eatontown, NJ 07724
2. Description of Action: The proposed action is for a firm-fixed price delivery order consisting of a 12-month base period with two, 12-month option periods, issued under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government-Wide Acquisition Contract (GWAC) for routine and emergency call out maintenance on existing brand name Avaya telephone systems operating in Veterans Benefits Administration (VBA) Regional Offices (ROs) in seven locations. The maintenance support includes onsite 24x7 dispatch support which provides the sites with technician support as well as remote hardware and software support to include access within the VBA domain.
3. Description of Supplies or Services: The proposed action will provide maintenance on a routine and emergency call-out basis for the brand name Avaya telephone systems operating in VBA ROs located in Muskogee, Oklahoma; Boston, Massachusetts; New York, New York; Bay Pines, Florida; Milwaukee, Wisconsin; Jackson, Mississippi; and Waco, Texas. The support shall include maintenance for the telecommunications equipment, hardware, and software. The maintenance services include remote software and hardware support, access to service packs and firmware updates, and access to web services. In addition, the Contractor shall provide Avaya Support Advantage Parts 24x7x4 and Avaya Express Technology Support Same Business Day (SBD) coverage which ensures the replacement of parts within a specified time. The Contractor shall also provide Avaya Support Advantage Onsite dispatch 24x7 support which provides the sites with onsite technician support. VBA's Principal Period of Maintenance (PPM) will be determined by the normal operational hours based upon time zones and location of each RO. If a fault or issue cannot be resolved remotely and onsite intervention is required then the Contractor shall provide on-site technician support during the appropriate PPM. Finally, the Contractor shall provide Avaya Support Advantage Upgrade Advantage, and Avaya Express Technology Base Technical Support Service Packs coverage which provides major releases of Avaya software version updates. The Contractor shall provide remote software and hardware support to include access within the VBA network domain via a secure Virtual Private Network (VPN) connection in some cases. The Contractor shall ensure that all Avaya systems are maintained by a certified Avaya Partner fully accredited to perform installation, maintenance and Moves, Additions, and Changes (MAC) support service.
4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B), entitled "Only one awardee is capable of

providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.”

5. Rationale Supporting Use of Authority Cited Above: This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. Based on extensive market research, as described in paragraph 8 of this document, it was determined that limited competition is viable for the required brand name maintenance services which may or may not require hardware. The Avaya telephone systems supporting the VBA ROs specified herein were initially acquired to accommodate the existing number of users, plus any nominal growth in staffing. Since 2001, these sites have used Avaya telephone systems in support of the VBA’s National Telephone Strategy. On September 30, 2010 a delivery order was issued to upgrade the telephone systems to allow for additional users and to ensure the systems remained operational. The Avaya telephone systems are extremely complex. The current telephone systems are a complete Avaya brand name system which includes hardware, software, phones, and all ancillary equipment which allows communications directly within the VA network. In order to maintain compatibility and reliability, any replacement equipment must be fully compatible with the existing infrastructure. The VBA requires equipment from an authorized reseller offering Avaya brand name maintenance and items to ensure that the existing telephone systems will work in the VBA’s current environments. Introduction of multiple brand name products into the existing single brand network will likely render the telephone systems inoperable. Purchasing telecommunications maintenance from a manufacturer other than Avaya, or one of its authorized resellers, will cause interoperability issues and operational unavailability of the existing Avaya equipment being used.

Additionally, the Government requires any source which will provide maintenance services to have appropriate certifications to allow access to the VBA RO sites. This can only be accomplished by Avaya or an authorized reseller. Technicians that are not Avaya certified do not have access to Avaya certified parts, materials, or components required to maintain the current telephone systems nor do they have access to technical support experts at the Avaya Network Operation Center (NOC). This would result in an inability to meet VA’s aforementioned maintenance requirements. Avaya authorized technicians utilize Avaya technical support experts who are capable of remotely solving issues and problems with the telephone systems that cannot be solved on-site. This extended technical support offered by Avaya is integral to keeping the telephone systems operational at all times, especially through emergencies and is only available through Avaya and their authorized distributors and resellers with Avaya certified technicians.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. Limited competition on the NASA SEWP IV GWAC is anticipated for the required brand name services and any required support products. In accordance with FAR 5.301 and 16.505(b)(2), the award resulting from this action will be synopsisized on the Federal Business Opportunities page (FBO) and the justification will be made publicly available.

7. Actions to Increase Competition: The Government’s technical experts will continue to work with the program office to perform additional market research so that other

possible solutions can be considered for future procurements. If other products become available that meet compatibility requirements with existing Avaya hardware and software, solicitations for future requirements will be issued on a “brand name or equal” basis.

8. Market Research: To ascertain whether any source other than Avaya or their authorized resellers are capable of meeting the Government’s requirements, in January 2013, the Government’s technical experts contacted other maintenance service providers for telecommunications systems. The contractors acknowledged that they did not possess the certifications required to maintain and sustain a complete Avaya brand name telephone system, which can only be acquired through certified Avaya resellers. Additionally, the contractors acknowledged that without the certification, they could not perform diagnostics as a maintenance service because they would not have the necessary access to an Avaya NOC that is staffed with Avaya certified engineers who possess the ability to dispatch technicians and/or parts if an identified problem could not be fixed remotely. Therefore, the contractors who lack Avaya certifications cannot meet the Government’s requirement.

9. Other Facts: In August 2012, a Request for Information was posted to the NASA SEWP IV website to all four Contract Groups. Three responses by Avaya authorized resellers were received. Additionally, market research was also conducted by the Contract Specialist in January 2013 utilizing the NASA SEWP IV Product Verification and Manufacturer Lookup tool and it was determined that eight authorized resellers of Avaya telephone system products and associated maintenance services are current contract holders. The eight resellers include one Value Added Reseller (VAR) and Original Equipment Manufacturers from Group A, one Service Disabled Veteran-Owned Small Business VAR from Group B, five Small Business VARs from Group C, and one VAR from Group D. Therefore, limited competition is expected for this proposed action and based upon the number of authorized resellers competition shall be limited to Groups B and C. If no acceptable quotes are received initially, the request for quote shall be re-open for consideration by all Contract Groups.